THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 35211 of 1997

DATE: 19-02-2007

Between :

V.Vittal Rao

… Petitioner

And

The Mandal Revenue Officer,
Peddapalli Mandal,
Karimnagar District and 2 others.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 35211 of 1997

ORDER:

This writ petition is filed aggrieved by the action of the first respondent-Mandal Revenue Officer, in seeking to attach the immovable property belonging to the petitioner invoking the provisions of the A.P. Revenue Recovery Act, for recovery of a sum of Rs.53,964.15p. allegedly due in connection with a lining work entrusted to him by the third respondent during the year 1982-1983.

This Court, while directing Rule Nisi, by order, dated 30-12-1997, granted interim suspension of the impugned notice dated 11-12-1997.

Though, Rule Nisi was ordered on 30-12-1997, no counter affidavit is filed by any of the respondents and the interim order continued to be in operation through out.

The specific case of the petitioner is that the claim of the respondents towards the amounts allegedly due is untenable and without any basis and as a matter of fact, with regard to the very same claim A.S.No.27 of 1995 is pending before the Court of the II Additional Judge, Karimnagar. Thus it is contended that it is not open to the respondents to invoke the provisions of the A.P. Revenue Recovery Act.

In the absence of counter affidavit by the respondents, the version of the petitioner that his liability, if any, has not yet been

determined and the same is the subject matter of the proceedings pending in the civil court has to be accepted. Consequently, the impugned notice of attachment cannot be sustained and the same is hereby set aside. However, liberty is granted to the respondents to institute fresh proceedings in case necessity thereof arises after determination of the petitioner's liability if any.

Accordingly, the writ petition is disposed of. No costs.

_____

G. ROHINI, J.

Dt. 19-02-2007
KLP